IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT:

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.16898 OF 2005

Between:

M/s. Sri Varasidhi Vinayaka Traders,

Rep. by its Proprietor Mr. V. Praveen Kumar

144J-17, Nandyal-518 501, Kurnool District.

..... PETITIONER

AND

The Commercial Tax Officer-I,

Nandyal, Kurnool District.

.....RESPONDENT

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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W.P. No.16898 OF 2005

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ORDER: (Per Hon'ble Sri Justice B. Sudershan Reddy)

We have heard the learned counsel for the petitioner and the learned Special Standing Counsel for Commercial Taxes and at their request the writ petition itself is taken up for final disposal even at the stage of admission.

Rule Nisi.

The petitioner invokes the jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to issue a Writ of *Certiorari* calling for the records pertaining to the assessment order, dated 30-06-2005, for the assessment year 2001-02 passed by the sole respondent herein. It is mainly contended that the order of assessment, dated
17-01-2003, has become final and the same could not have been reopened on the basis of the alleged report to have been sent by the Regional Vigilance and Enforcement Officer, Kurnool.

That a bare perusal of the impugned order would disclose that the petitioner herein was finally assessed to tax on the gross and net turnover for the year 2001-02 under Section 9(2) of the Central Sales Tax Act, 1956 read with Section 14(4) of the A.P. General Sales Tax Act, 1957 by the Commercial Tax Officer-I, Nandyal. The said proceedings were once again revised vide order, dated 24-02-2005, based on the report submitted by the Regional Vigilance and

Enforcement Officer, Kurnool. Aggrieved thereby, the petitioner approached this Court and filed W.P. No.6762 of 2005 and batch, *inter alia,* contending that without providing an opportunity of being heard and without furnishing copy of the report submitted by the Regional Vigilance and Enforcement Officer, Kurnool, no revised order could have been passed by the authority. The said writ petitions have been disposed of vide its order, dated 31-03-2005, directing the respondent herein to furnish xerox copies of the documents on deposit of charges. The documents were accordingly supplied.

Thereafter, the petitioner made a detailed representation, dated 27-05-2005, raising objections as to the proposal to revise the assessment order already passed. Number of objections were raised, as is evident from the explanation submitted by the petitioner. The sole respondent herein in extenso referred to each and every objection raised by the petitioner and ultimately overruled the objections in the following manner:

> "……the objections filed by the dealers cannot be considered in the light of the inspection report sent by the Regional vigilance and Enforcement Officer, Kurnool in Rc.No.264/C/2004 dt.30.9.2004."

The respondent herein is a statutory authority entrusted with the duties to pass assessment orders, in accordance with law. Statute requires the objections preferred by the dealers to be considered, in accordance with law. The objections raised by the petitioner have merely been noted by the authority but the said objections did not receive consideration, whatsoever, in the hands of the assessing authority. It is not, as if, the petitioner accepted the contents of the inspection report sent by the Regional Vigilance and Enforcement Officer, and in fact, number of objections have been raised even as against the said report. The assessing officer did not even express any opinion as to why he proposed to accept the inspection report sent by the Regional Vigilance and Enforcement Officer. The impugned order is not supported by any reasons, whatsoever.

Learned counsel for the petitioner is justified in contending that in the facts and circumstances, the petitioner is very much within his limits to invoke the

jurisdiction of this Court under Article 226 of the Constitution of India without even availing the alternative remedy available in law.

For the aforesaid reasons, without expressing any opinion, whatsoever, on the merits of the controversy, the impugned order is set aside. The matter is remitted for fresh consideration by the respondent for disposal, in accordance with law.

It is needless to direct the respondent to consider the objections raised by the petitioner and record his reasons and findings in support of the conclusions to be arrived.
The petitioner shall appear before the respondent on
16-08-2005 at 11-00 a.m. and make his submissions, which shall duly be considered by the respondent. There shall be an order accordingly.

The Writ Petition is accordingly allowed to the extent indicated without any order as to costs.

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B. SUDERSHAN REDDY, J

Date:02-08-2005.

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RAMESH RANGANATHAN, J

NOTE:

Furnish C.C. of the order within three (3) days.

(B/O)

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